

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and)	WC Docket No. 11-42
Modernization)	
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service)	
)	
Lifeline and Link Up)	WC Docket No. 03-109

**REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER
ADVOCATES
ON THE FURTHER NOTICE OF PROPOSED RULEMAKING**

Charles A. Acquard, Executive Director
NASUCA
8380 Colesville Road (Suite 101)
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380

May 1, 2012

TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY	1
II.	THE COMMISSION'S DECISION TO ALLOW ONE LIFELINE SUPPORT PER HOUSEHOLD SHOULD NOT BE MODIFIED.	4
III.	THE COMMISSION SHOULD TAKE STEPS TO ENHANCE THE ABILITY OF CONSUMERS TO PROVE THEIR ELIGIBILITY FOR LIFELINE	6
IV.	LIFELINE CUSTOMERS SHOULD BE ABLE TO APPLY THE LIFELINE DISCOUNT TO ANY OF THE ETC'S OFFERINGS THAT INCLUDE VOICE SERVICE.....	8
V.	ETCS ARE REQUIRED TO OFFER LIFELINE.	9
VI.	CONCLUSION.....	11

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link Up)	WC Docket No. 03-109

**REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER
ADVOCATES
ON THE FURTHER NOTICE OF PROPOSED RULEMAKING**

I. INTRODUCTION AND SUMMARY

On February 6, 2012, the Federal Communications Commission (“Commission” or “FCC”) issued a Report and Order (“R&O”) and Further Notice of Proposed Rulemaking (“FNPRM”) in these dockets.¹ As described by the FCC, the reforms set forth in the R&O

substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund (USF or the Fund). ...[T]hese significant actions, ensur[e] that eligible low-income consumers who do not have the means to pay for telephone service can maintain their current voice service through the Lifeline program and those who are not currently connected to the networks will have the

¹ *Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Board on Universal Service; Advancing Broadband Availability through Digital Literacy Training*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 11-42, 03-109, and 12-23 and CC Docket No. 96-45, FCC 12-11 (released February 6, 2012) (“FNPRM”). See also Public Notice, DA-344, released March 6, 2012 setting April 2, 2012 for Initial Comments and May 1, 2012 for Reply Comments.

opportunity to benefit from this program and the numerous opportunities and security that telephone service affords.²

The FNPRM asked for comment on matters addressed in the R&O, including:

- A. Establishing an eligibility database³;
- B. Advancing broadband availability for low-income Americans through digital literacy training⁴;
- C. Limits on resale of Lifeline-supported services⁵;
- D. Lifeline support amount for voice services⁶;
- E. Tribal lands Lifeline and Link Up support⁷;
- F. Adding the Women, Infants and Children Program (“WIC”) to the eligibility criteria⁸;
- G. Establishing eligibility for homeless veterans⁹;
- H. Mandatory application of Lifeline discount to bundled service offerings¹⁰;
- I. “Own facilities” requirements¹¹;
- J. Eligible telecommunications carrier (“ETC”) requirements¹²; and
- K. Record retention requirements.¹³

² R&O, ¶ 1.

³ FNPRM, ¶¶ 399-415.

⁴ Id., ¶¶ 416-447.

⁵ Id., ¶¶ 448-461.

⁶ Id., ¶¶ 462-473.

⁷ Id., ¶¶ 474-482.

⁸ Id., ¶¶ 483-485.

⁹ Id., ¶¶ 486-487.

¹⁰ Id., ¶¶ 488-493.

¹¹ Id., ¶¶ 494-501.

¹² Id., ¶¶ 502-504.

¹³ Id., ¶¶ 505-506.

The National Association of State Utility Consumer Advocates (“NASUCA”) previously submitted comments regarding establishment of an eligibility database; setting a permanent Lifeline discount; enhancing eligibility for Lifeline; mandatory application of Lifeline discount to bundled service offerings; and ETC requirements.

Through these Reply Comments, NASUCA will address the following:

- The position of AT&T, CenturyLink and others that carriers designated as ETCs should be allowed to decline to offer Lifeline service;¹⁴
- Recommendations of CenturyLink and others that the FCC delay, or not adopt at all, WIC and/or Veteran Administration certification of veterans as homeless or low income as additional program-based criteria for Lifeline eligibility;¹⁵
- Opposition by carriers to the proposed requirement that consumers be allowed to apply Lifeline support to their choice of a bundle of services which include voice service;¹⁶
- The position of T-Mobile that households opting for wireless Lifeline should be allowed to obtain reduced support for additional lines for family members.¹⁷

Additionally, NASUCA notes that state commissions and other parties have weighed in on the question of development and use of databases to check a consumer’s initial eligibility for Lifeline and re-verify the consumer’s continued eligibility.

NASUCA agrees with the comments of state commissions and Joint Consumers that the development of an appropriate database or databases must consider the resources and costs to states and provide strong protection for the privacy of consumers. NASUCA set forth its position on this topic in its Comments and will not address this complex issue

¹⁴ AT&T Comments at 19; CenturyLink Comments at 7; Alaska Rural Coalition at 9; TracFone Comments at 22-24; Carolina West Wireless Comments at 2-3. *But see*, Cal. PSC at 1, 8; DC PSC at 1, 4-5; Joint Consumers Comments at 10; TRA Comments at 3; Dept. of Veteran Administration Comments at 1-10.

¹⁵ CenturyLink Comments at 6; T-Mobile Comments at 2, 10; GCI Comments at 8. *But see*, Joint Commenters at 2, 7, 14; Joint Consumers Comments at 8-9; Michigan PSC Comments at 7.

¹⁶ CenturyLink Comments at 7; AT&T Comments at 27-28; Cox Communications Comments at 14.

¹⁷ T-Mobile Comments at 6-7.

further at this point.

The fact that NASUCA has not offered a reply to each of the comments and positions filed by other parties does not signify NASUCA's agreement. NASUCA has expressed its position on some issues through earlier comments or ex partes. NASUCA will address other issues related to further reform of the Lifeline program as part of any future rulemaking.

II. THE COMMISSION'S DECISION TO ALLOW ONE LIFELINE SUPPORT PER HOUSEHOLD SHOULD NOT BE MODIFIED.

As part of the FNPRM, the FCC sought comment on the proposal of T-Mobile that eligible low income households be allowed additional Lifeline support for additional lines.¹⁸ The Commission requested comment on how to enforce such a rule and whether some division of Lifeline support between wireline and wireless would be possible. NASUCA opposed T-Mobile's proposal, noting that if additional Lifeline support is to be made available then it should go to allow more households qualify for affordable telephone service with Lifeline support.¹⁹ NASUCA noted that NASUCA and low income advocate groups had provided strong support for expansion of the income eligibility criteria, so more households may be eligible for Lifeline support in states which have not already adopted an income eligibility criterion of 150% of federal poverty guidelines.²⁰

NASUCA has reviewed the comments of other parties and has found scant support for T-Mobile's proposal. T-Mobile states that its recommendation should be

¹⁸ FNPRM ¶ 471.

¹⁹ NASUCA Comments at 11, 14-15.

²⁰ Id.

adopted to provide Lifeline eligible households with service which is “reasonably comparable” to services preferred by non-Lifeline households.²¹ In T-Mobile’s view of the world, “[n]on-Lifeline households generally subscribe to a wireless connection for each adult and each teenager in the household,” so T-Mobile recommends that “support should be available in Lifeline-eligible households for the head of household, any spouse, and any dependent children age 13 and above.”²² T-Mobile points to tax returns as a resource to check the accuracy of claimed relationships. GCI supports T-Mobile’s proposal as “sensible.”²³

NASUCA submits that there is nothing “sensible” about T-Mobile’s proposal. As a matter of procedure, determination of the type and scope of services which qualify for universal service support is the province of the Federal-State Joint Board for Universal Service and Commission. T-Mobile’s broad generalization as to what comprises reasonably comparable service fails to account for the fact that wireless family plans are not affordable for consumers at all levels of income. Further, adoption of T-Mobile’s proposal would impose significant costs on other consumers who contribute support to the federal USF and reduce affordability for many consumers, without any improvement in telephone penetration rates. T-Mobile has not provided sound factual or policy support for modification of the Commission’s recently adopted “one-per-household” rule.²⁴

²¹ T-Mobile Comments at 6-7.

²² *Id.* at 6.

²³ GCI Comments at 7.

²⁴ Lifeline Reform Order, ¶ 74. The Commission adopted a definition of household which expressly may include multiple adults and children. A household is “an economic unit consists of all adult individuals contributing to and sharing in the income and expenses of a household.” *Id.* Children through age 17 are considered part of the household of their parent or guardian. *Id.*, fn. 195. “For the purposes of the rule we adopt today, ‘adults’ are persons eighteen years of age or older, and children living with their parents or legal guardians are considered to be part of their parent or guardian’s household.”

III. THE COMMISSION SHOULD TAKE STEPS TO ENHANCE THE ABILITY OF CONSUMERS TO PROVE THEIR ELIGIBILITY FOR LIFELINE

NASUCA's Comments expressed unqualified support for action by the Commission to add the WIC program to the categorical eligibility list.²⁵ NASUCA also supports measures to assure that veterans who are low-income can be readily identified as eligible for Lifeline and approved, particularly those veterans who may be homeless and/or lack income. Despite the clear merit of the Commission's proposed modification of the Lifeline eligibility criteria, CenturyLink, T-Mobile, and Verizon recommend that the Commission not take action at this time to ease the way for WIC participants or veterans who are homeless and/or without income to prove their eligibility for Lifeline.²⁶ CenturyLink and T-Mobile advise that the Commission work through the full process of implementation of a national database for use to check eligibility before making additions to the federal Lifeline eligibility criteria.

NASUCA opposes the recommendation of CenturyLink, T-Mobile and any other parties which oppose or recommend delay in Commission action. Promotion of universal service is the fundamental policy and goal of federal communications law. Implementation of a national database or some coordinated use of state databases is but a tool to guard against fraud, waste of abuse as the goal of national universal service is pursued. NASUCA joins the Joint Consumers, Michigan Public Service Commission, Joint Commenters (certain wireless ETCs), and others in advocating that the Commission take the important step of broadening and refining the core federal Lifeline eligibility

²⁵ FNPRM, ¶ 483.

²⁶ CenturyLink at 6; T-Mobile at 2, 10; Verizon at 6; see also Leap Wireless/ Cricket at 6-8.

criteria to include consumers who fit these profiles.²⁷ Verizon's position that consumers who participate in WIC should just prove their eligibility for Lifeline based on income ignores that proof of income may be a barrier for some consumers and imposes administrative burdens on the ETC.²⁸

NASUCA supports adoption by the FCC of participation in the WIC program as a program-based Lifeline eligibility criteria in all states. Addition of this criteria should help extend Lifeline support to more households which are low-income and will benefit from receipt of voice service with Lifeline support.

NASUCA also supports coordination between the Commission and Department of Veteran Affairs (VA) to identify those veteran assistance programs which should be added as federal Lifeline eligibility criteria.²⁹ The VA Comments identify specific programs and types of VA assistance which provide veterans who have zero or little income and are homeless or without permanent residence with supporting services. As explained by the VA, these programs provide health and shelter assistance based on review of the veteran's needs and lack of economic resources. These checks and reviews by the VA provide assurance that the covered veterans should qualify for Lifeline, without asking the veterans to produce for an ETC proof of low income or the harder task of proof of zero income. NASUCA also supports the recommendation of the Michigan PSC and others that the 90 day recertification requirement adopted by the FCC for consumers who rely on shelters for a residence should not apply to homeless veterans.³⁰

²⁷ Joint Consumers at 8-9; Mich PSC at 7; FL PSC at 3-4; Joint Commenters at 2, 7, 14; GCI at 8; TracFone at 14-15; Sprint Nextel at 11-13; National Hispanic Media Coalition at 14-15; i-wireless at 7-8.

²⁸ Verizon at 6.

²⁹ VA Comments at 1-8.

³⁰ Mich. PSC Comments at 7.

Given that these veterans would qualify based on their eligibility for VA services to homeless veterans, NASUCA agrees with the Michigan PSC that homeless veterans should only have to recertify their eligibility for Lifeline once a year.

V. LIFELINE CUSTOMERS SHOULD BE ABLE TO APPLY THE LIFELINE DISCOUNT TO ANY OF THE ETC'S OFFERINGS THAT INCLUDE VOICE SERVICE.

In the FNPRM, the Commission noted that in the R&O it had

adopt[ed] a federal policy providing all ETCs (whether designated by a state or this Commission) the *flexibility* to permit Lifeline subscribers to apply their Lifeline discount to bundled service packages or packages containing optional calling features available to Lifeline consumers. Giving ETCs the flexibility to offer expanded service packages to Lifeline consumers will enhance consumer choice by making broadband and mobile voice services more accessible and affordable for low-income consumers.³¹

As NASUCA stated in initial comments, “Despite recognizing the value of this flexibility for consumers, the Commission seems unwilling to recognize the need to deny ETCs the ability to deny that value to Lifeline customers.”³²

It should not be surprising that most of the industry comments seek to retain this ability to restrict their Lifeline customers’ choice of bundles.³³ But it is not in the public interest.

The central theme seems to be that the market will solve this problem.

COMPTEL states, “To the extent that there is demand for a Lifeline discount on bundled service offerings, there is no reason to believe that ETCs will not respond to that demand

³¹ FNPRM at ¶ 488 (emphasis added).

³² NASUCA Comments at 17.

³³ See AT&T Comments at 27; CenturyLink Comments at 7; COMPTEL Comments at 26; Cox Comments at 14-16; Cricket Comments at 11-12; CTIA Comments at 4-5; i-Wireless Comments at 8; T-Mobile Comments at 7-8; USTelecom Comments at 7; Verizon Comments at 7-8.

and offer the discount without regulatory compunction [sic].”³⁴ But as NASUCA noted in the initial comments, some ETCs simply do not want to give their Lifeline customers the choice of bundles³⁵; thus there is a definite reason to believe that some ETCs will not respond to demand (in this respect at least).

On the other hand, some commenters do note that they allow their Lifeline customers to apply the discount to any bundles, although they do oppose the mandate.³⁶ This ability to apply the discount rebuts T-Mobile’s contention that it “may be technically difficult to implement....”³⁷

In the end, as stated in NASUCA’s comments,

It is almost Orwellian for carriers to argue that providing \$9.25 a month in support for a customer’s choice of a bundle “interferes” with their products. And it is the **public** interest that should dictate the Commission’s decisions here, not the self-interested, transitory business plan of one or more carriers.³⁸

V. ETCS ARE REQUIRED TO OFFER LIFELINE.

In the FNPRM, the Commission sought comment on AT&T’s suggestion “that the Commission should allow incumbent wireline Lifeline providers to choose whether to participate in the Lifeline program, arguing that wireline telephone companies are no

³⁴ COMPTel Comments at 26. See also CenturyLink Comments at 7; Cox Comments at 15; Cricket Comments at 11-12; CTIA Comments at 5; i-Wireless Comments at 8; USTelecom Comments at 7; Verizon Comments at 7.

³⁵ NASUCA Comments at 17.

³⁶ CenturyLink Comments at 7; Cox Comments at 15; i-Wireless Comments at 8. AT&T opposes the mandate (AT&T Comments at 27), although — at least in Ohio — it allows its Lifeline customers to subscribe to bundles. See also NASUCA Comments at 18 for individual states that require the Lifeline discount to be applied to the bundle of the customer’s choice; clearly, the Commission should not preempt such state requirements, and it does not appear that any commenter has so suggested.

³⁷ T-Mobile Comments at 7.

³⁸ NASUCA Comments at 20.

longer the dominant provider of voice services.”³⁹

As NASUCA stated in the initial comments

The statute is clear: ETCs must offer Lifeline service. 47 U.S.C. § 214(e) defines ETCs, and states unequivocally that an ETC “**shall**, throughout the service area for which the designation is received ... offer the services that are supported by Federal universal service support mechanisms under section 254 (c) of this title....” (Emphasis added.)

The Commission has also unequivocally defined Lifeline as a supported service under § 254(c). Thus ETCs must offer Lifeline throughout their service territories, regardless of whether they are the dominant carrier in that territory.⁴⁰

Similar to the bundles argument, a number of carriers — both incumbents⁴¹ and some wireless carriers⁴² — also oppose the requirement that ETCs be required to offer Lifeline. Most of these arguments both ignore the statute and significantly overstate the “competition” for Lifeline service.⁴³ For example, AT&T’s comparison fails to acknowledge that wireless carriers may have obtained more Lifeline support per customer than wireline carriers in states where the wireless carrier opted to self-supply the state match to qualify for Tier 3 support.⁴⁴ Wireline service still offers public safety advantages over wireless service, where wireless carriers still caution that wireless phones may not reach public safety services in all locations.⁴⁵

³⁹ FNPRN, ¶ 503, citing AT&T Jan. 24 *ex parte* Letter at 1.

⁴⁰ NASUCA Comments at 21.

⁴¹ AT&T Comments at 19-22; CenturyLink Comments at 7; USTelecom Comments at 8; Verizon Comments at 10-11.

⁴² Carolina West Wireless, Inc. *et al.* Comments; Cricket Comments at 11; Joint [Wireless] Commenters Comments at 13. Presumably these wireless carriers view the incumbents’ possible decision not to offer Lifeline as tilting the competitive balance in the wireless carriers’ favor.

⁴³ See Cricket Comments at 11.

⁴⁴ AT&T Comments at 19.

⁴⁵ For example, TracFone’s SafeLink Wireless Service Terms and Conditions includes the following caution:

Verizon takes a slightly different tack, arguing, as it has before, that “all ETC obligations should be eliminated in areas where carriers do not receive high cost support[....]”⁴⁶ Verizon does not provide any indication of how the statute might allow this “delinking,”⁴⁷ and gives no indication as to whether an ETC not receiving high-cost support might voluntarily offer Lifeline.

AT&T’s vision is that a carrier need not be an ETC to offer Lifeline, and that not all ETCs must offer Lifeline.⁴⁸ The first proposition ignores the simple fact that, pursuant to § 254(e), only ETCs may receive federal universal service funding. As for the second proposition, none of the comments provide sufficient reason to justify changing the FCC’s rule requiring ETCs to offer Lifeline.

VI. CONCLUSION

NASUCA commends the Commission for its efforts to improve the Lifeline program. As set forth in the NASUCA Initial Comments and these Reply Comments, the Commission may further enhance the Lifeline program through the adoption of additional eligibility criteria and work towards a national database with appropriate privacy protections to aid in the certification and re-verification of eligible consumers. NASUCA

“16. EMERGENCY CALLS. SAFELINK Wireless customers have access to 911. Occasionally, however, callers may attempt to call 911 in areas where there is no wireless coverage. If there is no wireless coverage, your call to 911 may not go through and You should dial 911 from the nearest landline phone.” See <https://www.safelinkwireless.com/Safelink/>, select “Terms and Conditions,” scroll to Item 16. (Last viewed Apr. 30, 2012).

⁴⁶ Verizon Comments at 10.

⁴⁷ See NASUCA Comments at 21-22 for discussion of the sole statutory means by which ETC status — and its obligations — may be relinquished.

⁴⁸ AT&T Comments at 19-20.

also recommends that the Commission dismiss proposals by certain other parties which will do harm to the provision of universal service to eligible low-income consumers. The Commission should adopt NASUCA's recommendations set forth in these combined NASUCA comments.

Respectfully submitted,

Charles A. Acquard, Executive Director
Charles A. Acquard
NASUCA
8380 Colesville Road (Suite 101)
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380

May 1, 2012
155700